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EXAMINER	
YUEN, KAN	

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2616	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/723,118	ORAN ET AL.	
	Examiner	Art Unit	
	Kan Yuen	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/23/2004, 6/27/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7, 8, 10-15, 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Adhikari et al. (Pub No.: 2004/0252646).

In claim 1, Adhikari et al. disclosed the method of for analyzing a media path in a packet switched network, comprising: sending and/or receiving a no-op media payload packet over the media path; and requesting or receiving media path quality information associated with the no-op media payload packet (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and paragraph 0093, lines 1-8 and see fig 1). In the reference, device A sends a packet with time stamp A to device B. Device B returns the packet with time stamp B. Each device stores a bit array indicating the packet was received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the path quality information is the pattern of the packet loss.

In claim 2, Adhikari et al. disclosed the method of for including formatting the no-op media payload packet as a Real Time Protocol (RTP) payload packet that contains no media content (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and see paragraph 0093, lines 1-8). The packet sent by device A that contains no media content is a RTP packet.

In claim 3, Adhikari et al. disclosed the method of for generating a media path analysis report from the information generated from the transmitted no-op media payload packets (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and see fig 1) In the reference, device A sends a packet with time stamp A to device B. Device B returns the packet with time stamp B. Each device stores a bit array indicating the packet was received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the path quality information is the report.

In claim 4, Adhikari et al. disclosed the method of for the media path analysis report is a Real Time Control Protocol (RTCP) report (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, paragraph 0097, lines 1-3 and see fig 6)

In claim 7, Adhikari et al. disclosed the method of for generating the media path analysis report without playing out contents of the no-op media payload packet (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and see fig 1) The packet sent by device A that contains no media content.

In claim 8, Adhikari et al. disclosed the method of for receiving multiple no-op media payload packets; and generating the media path analysis report according to

transmission information for all of the multiple no-op media payload packets (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and see fig 1). In the reference, device A sends packets with time stamps to device B. Device B returns the packet with time stamps for each packet. Each device stores a bit array indicating the packets were received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the path quality information is the pattern of the packet loss.

In claim 10, Adhikari et al. disclosed the method of for notifying a user of a media call according to the information associated with the transmission of the no-op media payload packet (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and see fig 1). In the reference, device A sends packets with time stamps to device B. Device B returns the packet with time stamps for each packet. Each device stores a bit array indicating the packets were received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the returned information is a notification to device A or user A.

In claim 11, Adhikari et al. disclosed the method of for a processor configured to send or receive one or more packets formatted for carrying a media payload but containing no media payload, the processor further configured to send or receive a media stream according to transmission information associated with the packets (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and paragraph 0093, lines 1-8 and see fig 1). In the reference, device A sends packets with time stamps to device

B. Device B returns the packet with time stamps for each packet. Each device stores a bit array indicating the packets were received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the path quality information is the pattern of the packet loss. The device A can be the processor.

In claim 12, Adhikari et al. disclosed the method of for the processor is configured to format the packets into Real Time Protocol (RTP) packets (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10). The packet sent by device A that contains no media content is a RTP packet.

In claim 13, Adhikari et al. disclosed the method of for the processor is configured to generate a Real Time Control Protocol (RTCP) report using the transmission information associated with the packets (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and see fig 1). In the reference, device A sends a packet with time stamp A to device B. Device B returns the packet with time stamp B. Each device stores a bit array indicating the packet was received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the path quality information is the pattern of the packet loss.

In claim 14, Adhikari et al. disclosed the method of for a user interface configured to communicate with a device that initiates an IP network connection for transmitting the media stream (see paragraph 0093, lines 1-8, and see fig. 1). As shown the endpoints

devices between the network has established connection. RTP packet is transmitted between the endpoints. The device A is the user interface.

In claim 15, Adhikari et al. disclosed the method of for the processor is configured to conduct a signaling session that notifies a receiver that the packets are going to be used for analyzing the IP network (see paragraph 000048, lines 1-12). In the reference, the SIP protocol is being used with the invention. The SIP can be used for event subscription and notification.

In claim 18, Adhikari et al. disclosed the method of for sending multiple Real Time Protocol (RTP) payload packets that contain no media payload; setting a marker bit in one of the RTP payload packets that causes a receiver to send back a Real Time Control Protocol (RTCP) report that contains media path information for the sent RTP payload packets; and sending a media stream to the receiver according to the media path information in the RTCP report (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and paragraph 0093, lines 1-8 and see fig 1). In the reference, a test packet is being sent from device A to device B for the purpose of measuring the QoS data. Device A sends a packet with time stamp A to device B. Device B returns the packet with time stamp B. Each device stores a bit array indicating the packet was received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the path quality information is the pattern of the packet loss. As we already known, test packet contains no media content.

Claim Rejections - 35 USC § 103

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 5,16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adhikari et al. (Pub No.: 2004/0252646), in view of Sagfors (Pub No.: 2004/0218617).

For claim 5, Adhikari et al. disclosed all the subject matter of the claimed invention with the exception of setting a marker bit in the no-op media payload packet to initiate a receiver to immediately send back the media path analysis report. Sagfors from the same or similar fields of endeavor teaches the method of setting a marker bit in the no-op media payload packet to initiate a receiver to immediately send back the media path analysis report (see paragraph 0027, lines 1-8). As shown, a packet may be added with a tag (marker bit), which indicates the packet has the priority to return by the receiver to the sender directly. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Sagfors in the network of Adhikari et al. The motivation for using the method as taught by Sagfors in the network of Adhikari et al. being that the congested packet can be re-transmitted instead of dropping in at a queue.

Regarding to claim 16, Sagfors also disclosed the method of the processor is configured to generate a marker bit in one of the packets that causes the receiver to send back the transmission information associated with the packets (see paragraph 0027, lines 1-8). As shown, a packet may be added with a tag, which indicates the packet has the priority to return by the receiver to the sender directly.

Regarding to claim 19, Adhikari et al. disclosed the method of receiving multiple RTP payload packets that contain no media payload; generating an RTCP report that

that includes media path information for the received RTP payload packets (see paragraph 0090, lines 1-12, and paragraph 0091, lines 1-10, and paragraph 0093, lines 1-8 and see fig 1). In the reference, device A sends a packet with time stamp A to device B. Device B returns the packet with time stamp B. Each device stores a bit array indicating the packet was received correctly. Then the bit array is sent back from device B to device A, so that device A knows the number and pattern of packet loss. Therefore we can say that the path quality information is the pattern of the packet loss. However, Adhikari et al. did not disclosed the method of sending the RTCP report when one of the RTP payload packets is received that has a set marker bit; and establishing a media stream according to the media path information in the RTCP report. Sagors from the same or similar fields of endeavor teaches the method of sending the RTCP report when one of the RTP payload packets is received that has a set marker bit; and establishing a media stream according to the media path information in the RTCP report (see paragraph 0027, lines 1-8). As shown, a packet may be added with a tag (marker bit), which indicates the packet has the priority to return by the receiver to the sender directly. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Sagfors in the network of Adhikari et al. The motivation for using the method as taught by Sagfors in the network of Adhikari et al. being that the congested packet can be re-transmitted instead of dropping in at a queue.

7. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adhikari et al. (Pub No.: 2004/0252646), in view of Partain et al. (Pat No.: 7068607).

For to claim 9, Adhikari et al. disclosed all the subject matter of the claimed invention with the exception of determining whether or not to transmit or play out a media stream over the media path according to the information associated with the transmission of the no-op media payload packet. Partain et al. from the same or similar fields of endeavor disclosed the method of determining whether or not to transmit or play out a media stream over the media path according to the information associated with the transmission of the no-op media payload packet (see column 3, lines 30-45). As shown in the reference, the system determines whether or not to establish a transmission connection between two points based on the quality report of two points. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Partain et al. in the network of Adhikari et al. The motivation for using the method as taught by Partainet al. in the network of Adhikari et al. being that each network has an access control system, which measures the congestion state by transmitting a probe signal.

Regarding to claim 17, Partain et al. also disclosed the method of the processor is configured to send or receive the media stream according to the number of successfully transmitted packets and the jitter statistics for the packets (see column 3, lines 30-45). As shown in the reference, the system determines whether or not to establish a transmission connection between two points based on the load status of the

two points. The number of successfully transmitted packet can also be considered as load status.

8. Claims 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adhikari et al. (Pub No.: 2004/0252646), in view of Sagfors (Pub No.: 2004/0218617), as applied to claim 5 above, and further in view of Partain et al. (Pat No.: 7068607).

For claim 6, Adhikari et al. and Sagors both disclosed all the subject matter of the claimed invention with the exception of determining whether or not to transmit a media stream over the media path according to when or if the media path analysis report is received after transmitting the no-op media payload packet with the set marker bit. Partain et al. from the same or similar fields of endeavor teaches the method of determining whether or not to transmit a media stream over the media path according to when or if the media path analysis report is received after transmitting the no-op media payload packet with the set marker bit (see column 3, lines 30-45). As shown in the reference, the system determines whether or not to establish a transmission connection between two points based on the quality report of two points. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Partain et al. in the network of Adhikari et al. and Sagfors. The motivation for using the method as taught by Partainet al. in the network of Adhikari et al. and Sagfors being that each network has an access control system, which measures the congestion state by transmitting a probe signal.

Regarding to claim 20, Partain et al. also disclosed the method of delaying ringing a phone used for receiving the media stream until the RTCP report is received and indicates an acceptable media path for sending the media stream (see column 3, lines 30-45). As shown in the reference, the system determines whether or not to establish a transmission connection between two points based on the load status of the two points. The load status can be interpreted as the RTCP report. If the load status does not meet the quality of service, it will delay the transmission to the other endpoint. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Partain et al. in the network of Adhikari et al. and Sagfors. The motivation for using the method as taught by Partainet al. in the network of Adhikari et al. and Sagfors being that each network has an access control system, which measures the congestion state by transmitting a probe signal.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. Takihiro et al. (Pat No.: 6700874), Mikami et al. (Pat No.: 7072968), and Kusama et al. (Pub No.: 2003/0165117), are show systems which considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kan Yuen whose telephone number is 571-270-2413. The examiner can normally be reached on Monday-Friday 10:00a.m-3:00p.m EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky O. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SUPERVISORY PATENT EXAMINER